

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LEROY RED,

Plaintiff,

V.

STATE OF WASHINGTON,

Defendant.

CASE NO. C16-0504RSM

ORDER DENYING MOTION TO APPOINT COUNSEL

This matter comes before the Court on Plaintiff's Motion to Appoint Counsel. Dkt. #5. Plaintiff asks the Court to appoint counsel on the basis that he has contacted five attorneys and none of them would take his case. *Id.* Plaintiff has been granted leave to proceed *in forma pauperis* in this matter. Dkt. #3. The original Complaint was filed on April 26, 2016. Dkt. #4. A Summons has not yet been issued, and the Court has directed Plaintiff to file an Amended Complaint. Dkt. #6.

In civil cases, the appointment of counsel to a *pro se* litigant “is a privilege and not a right.” *United States ex. Rel. Gardner v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965) (citation omitted). “Appointment of counsel should be allowed only in exceptional cases.” *Id.* (citing *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963)). A court must consider together “both the likelihood of success on the merits and the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952,

1 954 (9th Cir. 1983). Even where the claim is not frivolous, counsel is often unwarranted where
2 the litigant's chances of success are extremely slim. *See Mars v. Hanberry*, 752 F.2d 254, 256
3 (6th Cir. 1985).

4 At this early stage of the litigation, the Court cannot find that Plaintiff is entitled to
5 appointment of counsel. It does not yet appear that any exceptional circumstances exist, and
6 there is no record before the Court that would allow the Court to examine whether Plaintiff's
7 claims appear to have merit, particularly given that the Court has directed Plaintiff to file an
8 Amended Complaint in Order to determine whether this Court has jurisdiction over the claims.
9
10 *See* Dkt. #6.

11 Accordingly, Plaintiff's Motion to Appoint Counsel (Dkt. #5) is DENIED. This Order
12 does not preclude Plaintiff from re-filing this Motion once a factual record pertaining to his
13 claims has been more fully developed
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15 DATED this 13th day of May, 2016.

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19 RICARDO S. MARTINEZ
20 CHIEF UNITED STATES DISTRICT JUDGE
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